

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

BRIAN AVERY SMITH
PLANTIFF

CIVIL ACTION NO. 13CV1106A
42 U.S.C§ 1983

V

DEFENDANTS

WILLIAM J. HOCHUL JR. Esq.
MAURA K.O'DONNELL Esq.
RICHARD CALLAHAN
THOMAS ALBUS
ROBERT FLYNN
JAMES L RAMEY
OWEN E. CUNNIGHAM
JARROD M. PETRELLI
BRENDAN M. DONLAN
STEPHANIE M BIFANO
UNKOWN FBI AGENT
UNKOWN US. MARSHAL 1
UNKOWN US MARSHALL 2
UNKOWN US MARSHALL 3
CHRISTOPHER J COLLINS Captain
UNKOWN OFFICER OF WILLOUGHBY HILLS
K-9 OFFICER OF WILLOUGHBY HILLS,
MELISSA COLLEY
CLEOPHUS J WEEKS
WALTER HENNIGAN
THERESEA DAVIS
BRANDON PORTIS Esq.
MUTAIRU OLAYIWOLA
HONEY SHEAT-HARRIS
SONNY LETAK
JOSEPH BURCH
MYRA BURCH
KELLY ATKINSON
TODD MACLIN
LENARD FLOWERS
SIMMONETTE DEANS
DANIELLE MCCARTHY
SANDRA FISCHER
WILL SANIO
CHANTEL SMITH



SAM DAVIS Esq.
DEREK JOHNSON
SONYA JASPER
ANDY SUILAMAN
RENEE ANTHONY
HAL WARE
BUSINESS ASSOCIATES
KENNETH D LEWIS
SPRING LEAF FINANCIAL CEO
CEO OF PEN FED
MATT BEARDSLEY
UNKOWN PEN FED EMPLOYEE
CEO CITIZENS BANK
WESTWOOD GROUP CEO
PROSPER CEO
FRANK LOTEMPPIO 3RD Esq.
PATRICK BROWN Esq.
BUFFALO FIRE DEPARTMENT COMISSIONER
WBLK PROGRAM DIRECTOR
THE LENDING CLUB CEO
CEO OF SUN TRUST
ONE MAIN FINANCIAL CEO
NATION CITY MORTGAGE CEO
ELAVON CEO
SMALL BUSINESS FUNDING CEO
T.D. AUTO CEO
LONG ISLAND AUTO OWNER
W.C -Unknowns
C.K.-Unknowns
S.A.- Unknowns
M.S-Unknowns
N.I.-Unknowns
J.S.-Unknowns
K.T.-Unknowns
Furniture Store Owner unknown
T.D. AUTO CEO
Anna Hastings
Michelle Ridley
Spring Leaf Financial Manager

1. This is a civil action for damages brought pursuant to the United States Constitution and 42 U.S.C. § 1983 resulting from deprivations, under color of law, of Plaintiff's rights under the fourth, fifth, sixth and eighth amendments to the United States Constitution. This is an action for damages sustained by a citizen of the United States against U.S. Attorney office, William Hochul Jr, as head U.S. attorney is responsible for the conduct of the defendants and for his failure to take corrective action with respect to government personnel whose vicious propensities were notorious, to assure proper training and supervision of the personnel, or to implement meaningful procedures to discourage lawless official conduct.

2. This court has jurisdiction over these claims pursuant to article III, section 1 of the Constitution and 28 U.S.C. § 1331, 1332, 1342(3) and (4), 2201, and 1343. Plaintiff also invokes the pendant jurisdiction of this Court to decide the asserted statutory and common law tort claims. The amount in controversy exceeds \$10,000.00 excluding interest and costs. Under Statutes. 28 U.S.C. § 1331 as amended in 1980 provides: "The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States."

"(A) To recover damages for injury to his person or property, or because of the deprivation of any right or privilege of a citizen of the United States, by any act done in furtherance of any conspiracy mentioned in section 1985 of Title 42;

"(B) To recover damages from any person who fails to prevent or to aid in preventing any wrongs mentioned in section 1985 of Title 42 which he had knowledge were about to

occur and power to prevent;

“(C) To redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States;

“(D) To recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights, including the right to vote.”

Parties

3. Plaintiff Brian A Smith is a resident of Buffalo New York and at all times relevant to the allegations of this complaint was a resident of Erie County and a citizen of the United States. Address 4250 Federal Drive Batavia N. Y. 14020 Us# 61750-019

4. At all times relevant hereto, defendant William Hochul Jr. was duly appointed U.S. attorney of The Western District of New York, in Erie County. As such he was the lead supervisor responsible for training, supervision and conduct. He is also responsible for enforcing the laws for The FBI, U.S. Marshall, United States Probation Department, and U.S. Attorney's employed by the United States Justice Department. At all relevant times he was acting in such a capacity as the agent, servant, and employee of the Department of Justice . He is sued individually and his official capacity. Location United State Western District Court 2 Niagara Sq. Buffalo N.Y. 14202

5. At all times relevant hereto, defendant Richard Callahan was a U.S. attorney employed by the Department of Justice to perform duties in the Eastern District of Missouri . At all relevant times he was acting in such capacity as the agent, servant and employee of the Department of Justice and is sued individually and in his official capacity. Location United States Court House Eastern District of Missouri,

St Louis Missouri

6. At all times relevant hereto, defendant Thomas Albus was a U.S. attorney employed by the Department of Justice to perform duties in the Eastern District of Missouri. At all relevant times he was acting in such capacity as the agent, servant and employee of the Department of Justice and is sued individually and in his official capacity. Location: United States Court House Eastern District of Missouri St Louis.

7. At all times relevant hereto defendant Maura K. O'donnell was a U.S. attorney employed by the Department of Justice to perform duties in the Western District of New York. At all relevant times he was acting in such capacity as the agent, servant and employee of the Department of Justice and is sued individually and in her official capacity. Location U.S. Court House 2 Niagara Square Buffalo N.Y.

8. At all times relevant hereto, defendant James L Ramey was a FBI agent employed by the Department of Justice to perform duties in the Eastern District of Missouri. At all relevant times he was acting in such capacity as the agent, servant and employee of the Department of Justice and is sued individually and in his official capacity. Location FBI Headquarters St Louis Missouri

9. At all times relevant hereto, defendant Owen C. Cunningham was a FBI agent employed by the Department of Justice to perform duties in the Eastern District of Missouri. At all relevant times he was acting in such capacity as the agent, servant and employee of the Department of Justice and is sued individually and in his official capacity. Location FBI Headquarters St Louis Missouri

10. At all times relevant hereto, defendant Jarrod Petrelli was a FBI agent employed by the Department of Justice to perform duties in the Eastern District of Missouri. At all relevant times he was acting in such capacity as the agent, servant and employee of the Department of Justice and is sued individually and in his official capacity. Location FBI Headquarters St Louis Missouri

11. At all times relevant hereto, defendant Brendon M. DONLAN was a FBI agent employed by the

Department of Justice to perform duties in the Western District of New York. At all relevant times he was acting in such capacity as the agent, servant and employee of the Department of Justice and is sued individually and in his official capacity. Location FBI Headquarters Buffalo N.Y.

12 .At all times relevant hereto, defendant unknown FBI agent aka Alan was a FBI agent employed by the Department of Justice to perform duties in the Western District of New York. At all relevant times he was acting in such capacity as the agent, servant and employee of the Department of Justice and is sued individually and in his official capacity. Location FBI Headquarters Buffalo N.Y., he serves in the White Collar division with the other defendants Buffalo N.Y.

13.At all times relevant hereto, defendant Stephanie Bifano was a FBI agent employed by the Department of Justice to perform duties in the Western District of New York. At all relevant times he was acting in such capacity as the agent, servant and employee of the Department of Justice and is sued individually and in her official capacity. Location FBI Headquarters Buffalo N.Y.

14. At all times relevant hereto, defendant United States Marshall 1 employed by the Department of Justice to perform duties in the Western District of New York. At all relevant times he was acting in such capacity as the agent, servant and employee of the Department of Justice and is sued individually and in his official capacity. Location: U.S. Marshall's headquarters Buffalo N.Y. served a warrant issued by Judge Arcara per Mellissa Colley on March 2, 2013.

15.At all times relevant hereto, defendant United States Marshall 2 employed by the Department of Justice to perform duties in the Western District of New York. At all relevant times he was acting in such capacity as the agent, servant and employee of the Department of Justice and is sued individually and in his official capacity. Location: U.S. Marshall's headquarters Buffalo N.Y. served a warrant issued by Judge Arcara per Mellissa Colley on March 2, 2013.

16.At all times relevant hereto, defendant United States Marshall 3 employed by the Department of

Justice to perform duties in the Western District of New York. At all relevant times he was acting in such capacity as the agent, servant and employee of the Department of Justice and is sued individually and in his official capacity .Location: U.S. Marshall's headquarters Buffalo N.Y. served a warrant issued by Judge Arcara per Mellissa Colley on March 2, 2013.

17. At all times relevant hereto, defendant United States Probation officer Melissa Colley employed by the Department of Justice to perform duties in the Western District of New York. At all relevant times she was acting in such capacity as the agent, servant and employee of the Department of Justice and is sued individually and in her official capacity. Location: U.S. Probation office Buffalo N.Y.

18. At all times relevant hereto, defendant United States Probation officer CLEOPHUS J WEEKS employed by the Department of Justice to perform duties in the Western District of New York. At all relevant times he was acting in such capacity as the agent, servant and employee of the Department of Justice and is sued individually and in his official capacity. Location U.S. probation office Buffalo N.Y.

19. At all times relevant hereto, defendant Robert Flynn employed by Federal Public Defendant Office in to perform duties in the Eastern District of Missouri. At all relevant times he was acting in such capacity as the agent, servant and employee of the Department of Justice and is sued individually and in his official capacity. Location U.S. Court House St Louis Missouri

20. At all times relevant hereto, defendant Samuel Davis was a retained attorney on behalf of the plaintiff, Davis relayed privilege information regarding timeline management and Joseph Burch, to William Hochul Jr's office which subsequently impede the due process of the plaintiff, he is sued individually and as a representative of his firm. Location Main Place mall Buffalo N.Y.

21. At all times relevant hereto, defendant Frank Lotempio 3rd was a retained attorney on behalf of the plaintiff whom is employed by Lotempio and Brown, who divulged, privilege information with Brandon Portis Esq. whom ultimately shared it with the office of William Hochul Jr., he is sued individually and as

a representative of his firm. Location Franklin street between Court and Huron Buffalo N.Y.

22. At all times relevant hereto, defendant Patrick Brown was a retained attorney on behalf of the plaintiff whom is employed by Lotempio and Brown, whom appear on behalf of Frank Lotempio, who ultimately conspired with Maura K. Odonnell, he is sued individually and as a representative of his firm.

Location Franklin street between Court and Huron Buffalo N.Y.

23. At all relevant times hereto, defendant Joseph Burch was a business associate employed by Airport Parking and The Burch Agency, whom actively pursued capital from the following companies, Lending Club, Prosper.com, one main financial, citizens bank, spring leaf financial, timeline mgmt, small business funding, elavon, westwood group, long island auto, and T.D. auto finance, he is sued individually and as representative of his company. Location 27 Sandhollow rd Getzville N.Y. or Buffalo International Airport

24. At all times relevant hereto, defendant Kelly Atkinson was a business associate owner of timeline management located in North Carolina. Atkinson actively funneled clients through his company to various financial institution, through his various automobile companies, furniture company, to ultimately obtain financing for his clients he is sued individually and as a representative of his said companies. Location North Carolina FBI has exact location

25. At all times relevant hereto, defendant Myra Burch was wife of business associate Joseph Burch employed by the public school system of Buffalo N. Y., she actively participated in Joseph Burch's ventures she is sued individually. Location 27 Sandhollow rd Getzville N.Y.

26. At all times relevant hereto, defendant Brandon Portis was an associate of the plaintiff employed by Family Court of Erie County. The defendant participated in various real estate ventures, conspired with Hochul, Sam Davis and Frank Lotempio, he is sued individually. Location: Erie County family court Buffalo N.Y.

27. At all times relevant hereto, defendant Theresa Davis was principal in a contract between Walter Hennigan and the Plaintiff, employed by the Buffalo Fire Department, and WBLK, whom conspired with Hochul, Hennigan, and Portis she is sued individually and as a member of the fire department and WBLK Location: Employed with Buffalo Fire Dept and WBLK in Buffalo N.Y.

28. At all times relevant hereto, defendant Walter Hennigan was a business associate of the plaintiff employed by Buffalo Fire Department, whom conspired with Hochul, Portis, Davis, and Olayiwola, he is sued individually and as a member of the Fire department Location: Employed with Fire Dept in Buffalo N.Y.

29. At all times relevant hereto, defendant MUTAIRU OLAYIWOLA was a business associate of the plaintiff in a joint venture among the plaintiff, Theresa Davis and Walter Hennigan. He is sued individually Location: Atlanta GA.

30. At all times relevant hereto, defendant Todd Maclin was a business associate of the plaintiff. Whom conspired with Danielle McCarthy and Hochul, he is sued individually. Location: Sycamore Ave at Danielle McCarthy residence

31. At all times relevant hereto, defendant Danielle McCarthy was investor of Todd Maclin, whom conspired with Hochul she is sued individually Location: Bank of America Getzville N.Y.

32. At all times relevant hereto, defendant Renee Anthony was a client of Timeline mgmt owner Kelly Atkinson, she conspired and Atkinson, she is sued individually. Location Atlanta Ga.

33. At all times relevant hereto, defendant Derek Johnson was a principal involved in a joint venture timeline mgmt he is sued individually. Location known by Buffalo FBI

34. At all times relevant hereto, defendant Simmonette Deans was participated in a joint venture with the plaintiff whom conspired with Hochul he is sued individually Location Toronto Canada

35. At all times relevant hereto, defendant Chantel Smith was an associate of the plaintiff, whom

conspired with Hochul, she is sued individually, Location Lakefront Laundry on Main street Buffalo N.Y.

36. At all times relevant hereto, defendant Sandra Fischer was an associate of the plaintiff, whom conspired with Hochul she is sued individually she is sued individually, Location 35 Balen Drive Buffalo N.Y.

37. At all times relevant hereto, defendant Honey Sheats was associate of the plaintiff involved in real estate matters she is sued individually, Location Atlanta GA

38. At all times relevant hereto, defendant Sonny Letak was an associate of the plaintiff, a mortgage broker on behalf of Bank of America, he secured a mortgage for Theresa Davis he is sued individually Location: Atlanta GA.

39. At all times relevant hereto, defendant Lenoard Flowers was associate of the plaintiff, whom conspired with Hochul he is sued individually Location: Atlanta GA.

40. At all times relevant hereto, defendant Sonya Japer was client of timeline management, whom conspired with Atkinson she is sued individually Location: Chicago Illinois

41. At all times relevant hereto, defendant W.C. was client of timeline management, whom conspired with Atkinson she is sued individually Location: FBI has information

43. At all times relevant hereto, defendant C.K. was client of timeline management, whom conspired with Atkinson she is sued individually, Location: FBI has information

44. At all times relevant hereto, defendant S.A. was client of timeline management, whom conspired with Atkinson she is sued individually, Location: FBI has information

45. At all times relevant hereto, defendant M.S. was client of timeline management, whom conspired with Atkinson she is sued individually, Location: FBI has information

46. At all times relevant hereto, defendant N.I. was client of timeline management, whom conspired with Atkinson she is sued individually, Location: FBI has information

47. At all times relevant hereto, defendant J.S. was client of timeline management,whom conspired with Atkinson she is sued individually,Location: FBI has information

48. At all times relevant hereto, defendant K.T. was client of timeline management,whom conspired with Atkinson she is sued individually, Location: FBI has information

49. At all times relevant hereto, defendant Will Sanio was the owner of small business funding, whom participated in providing Joseph Burch Funding, whom conspired with executives of Elavon. He is sued individually, Location Norcross GA.

50. At all times relevant hereto, defendant Anna Hastings was the manager of CitiFinancial whom procured a loan for Joseph Burch. She is sued individually and as an agent of the company, Location Tonawanda NY

51 At all times relevant hereto defendant , The manager of Spring Leaf Financial secured a loan for Joseph Burch, he is sued individually, and as an agent of the company, Location Hamburg N.Y.

52 . At all times relevant hereto defendant, Michelle Ridley was the manger of Citizens Bank, whom managed the business bank account for Joseph Burch and Kelly Atkinson, she is sued individually and as an agent of the company, Location Tops Supermarket on Elmwood

53. At all times relevant hereto defendant, CEO of Pen Fed Credit union was the executive in charge for implementing policies that are lawful, and simple for its members. Pen Fed has conspired with William Hochul, he is sued individually and as an agent of the company: Location Google company name

54. At all times relevant hereto defendant, Matt Beardsley employed by Pen Fed credit union responsible for be a liaison to law enforcement in particular the FBI Beardsley has conspired with Hochul. Location Google company name

55. At all times relevant hereto defendant , employee x was employed by Pen Fed credit union an assisted timeline mgmt in procuring unsecured loans his clients, he is sued individually an as an agent of

Pen Fed. Location Google company name

56. At all times relevant hereto defendant, unknown furniture store owner, assisted timeline management in procuring loans, he is sued individually and as the owner of the store, Location FBI has information

57. At all time relevant hereto Andy Suilaman was a client of timeline management, he is sued individually.

58. At all times relevant hereto Hal Ware was a mortgage broker employed by National City mortgage, who assisted in the securing of mortgages for the plaintiff, he is sued individually and as a broker for the company Location: National city mortgage co. Williamsville N.Y.

59. At all times relevant hereto the Kenneth D. Lewis of Bank of America is responsible for implementing policies that are federal regulated that contain interstate commerce clauses that effect Theresa Davis, he is sued individually and as CEO of Bank of America Location 100 North Tryon Street Charlotte, North Carolina

60. At all times relevant hereto the CEO of Lending Club is responsible for implementing policies that are federal regulated that contain interstate commerce clauses that effect its customers, in particular Joseph Burch he is sued individually and as CEO of The Lending Club .Location Google company name

61. At all times relevant hereto the CEO of Spring Leaf Financial is responsible for implementing policies that are federal regulated that contain interstate commerce clauses that effect Todd Maclin, Lenard Flowers, Joseph Burch and Danielle McCarthy he is sued individually and as CEO of Spring Leaf Financial. Location Google company name

62. At all times relevant hereto the CEO of Westwood Group is responsible for implementing policies that are federal regulated that contain interstate commerce clauses that effect Joseph Burch, Timeline mgmt, Renee Anthony he is sued individually and as a CEO of Westwood Group. Location Google

company name

63. At all times relevant hereto the CEO of Prosper.com is responsible for implementing policies that are federal regulated that contain interstate commerce clauses that effect timeline mgmt, and its respective clients he is sued individually and as CEO of the company, Location Google company name

64. At all times relevant hereto the CEO of One Main Financial is responsible for implementing policies that are federal regulated that contain interstate commerce clauses that effect Joseph Burch, he is sued individually and as CEO of One Main Financial. Location Google company name

65. At all times relevant hereto the CEO of National City Mortgage is responsible for implementing policies that are federal regulated that contain interstate commerce clauses that effect the performance of Hal Ware, and the securing of mortgages for the plaintiff, he is sued individually and as CEO of National City Mortgage. Location Google company name

66. At all times relevant hereto the CEO of T.D. Auto Finance is responsible for implementing policies that are federal regulated that contain interstate commerce clauses that effect Joseph Burch, he is sued individually and as CEO of T.D. Finance. Location Google company name

67. At all times relevant hereto the CEO of Elavon is responsible for implementing policies that are federal regulated that contain interstate commerce clauses that effect Will Sanio and Joseph Burch, he is sued individually and as CEO of the company. Location Google company name

68. At all times relevant hereto the CEO of Citizens Bank is responsible for implementing policies that are federal regulated that contain interstate commerce clauses that effect Joseph Burch and Kelly Atkinson. He is sued individually and as CEO of his company. Location google company name

69. At all times relevant hereto the CEO of Sun Trust Bank. is responsible for implementing policies that are federal regulated that contain interstate commerce clauses that effect mortgages secured by Theresa Davis he is sued individually and as CEO of Sun Trust.. Location Google company name

70. At all time relevant hereto defendant, Christopher J Collins was Captain of the Willoughby Hills Police Department, as such he was the commanding officer of Police officer unknown 1 and the k9 unit officer. responsible for training, supervision and conduct. He was also responsible by law for enforcing the regulations of Willoughby Hills police Department and for ensuring that Willoughby Hills police personnel obey the laws of the United States. He is sued individually and in his official capacity Location: 35.405 Chardon RD Willoughby Hill Ohio 44094

71. At all relevant times hereto police officer X for willoughby hills, did knowing violate the civil rights of the plaintiff, the defendant stopped the plaintiff illegally, then proceeded to violate the plaintiffs 4th amendment rights, search the car the plaintiff was driving, then called the plaintiff's said destination, to confirm his arrival, as well as proceeded to call the Willoughby Hills K-9 unit. He is sued individually and in his official capacity Location: 35.405 Chardon RD Willoughby Hill Ohio 44094

72 At all times relevant hereto police officer Y, did conspire with police officer X , andwith the officers Dog, to violate the civil rights of the plaintiff. He is sued individually and in his official capacity Location: 35.405 Chardon RD Willoughby Hill Ohio 44094

73. At all times relevant hereto the Buffalo Fire Department Commissioner allowed, the defendant Theresa Davis and defendant Walter Hennigan to conspire against the plaintiff, it is the Commisioner's role to regulate policies that limit the scope conduct a firefighter can invoke. He is sued individually and in his official capacity Location City Hall Buffalo N.Y.

74 At all times relevant hereto the WBLK program director is in charge of the actions and comments of the employees in particular Theresa Davis, he is sued individually and in his official capacity . Location Lafayette Square Buffalo N.Y.

75. At all time the unknown furniture store owner, is responsible for setting policy's that are lawful, he is sued individually and in his role as owner Location: FBI has information

76. The FBI has conducted an investigation of the plaintiff that includes a number of individuals, that included several government agencies and a number of private citizens. The government has provided limited information on the scope of their investigation but have identified all the parties mention in this claim, as a result. The defendants conspired together to violate the due process and other civil rights of the plaintiff and to charge him with a crime which he did not commit and which the defendants should have recognized he did not commit.

77. The investigation conducted by the defendants and their actions taken thereon were taken in bad faith or, in the alternative, negligently, and the plaintiff was damaged by reason thereof in at least the following respects:

- A. Loss of personal freedom;
- B. Payments necessary for bond and expenses of defense, including attorneys' fees;
- C. Pain and suffering, both physical and emotional; and
- D. Loss of reputation in the community of Buffalo, New York.

78. The wrongful acts of the defendants complained of herein were undertaken maliciously and include, without limitation, the following:

- A. Intentionally causing the arrest of the plaintiff when the defendants knew or should have known there were no grounds nor probable cause for his arrest;
- B. The failure of the defendants to interview witnesses who substantiated the plaintiff's account of his activities;
- C. The failure of the defendants to take into account facts which they knew cleared the plaintiff;
- D. The intent of the defendants from the beginning of their investigation to charge the plaintiff with a crime;
- E. The failure of the defendants to properly and adequately train the agents in the FBI, U.S. Marshall's

Department, Willoughby Hills Police and U.S. Probation Department in investigative techniques and procedures;

F. Preparation of groundless reports and affidavits in order to obtain an arrest warrant against the plaintiff

G. The procurement of groundless charges against the plaintiff based upon incomplete, unsupported evidence which the defendants knew or should have known was false, distorted or fabricated.

H. The failure of the defendants to take into account facts which they knew cleared the plaintiff

79. Each of the defendants , individually and in concert with the others, acted under pretense and color of law, and his official capacity but the acts were beyond the scope of his jurisdiction and without authorization of law and in abuse of their powers and each defendant acted willfully, knowingly, and with specific intent to deprive plaintiff of the right to freedom from unlawfully arrest, detention and imprisonment, all which rights are secured to plaintiff by the fourth, sixth and fourteenth amendments to the Constitution of the United States, and by 42 U.S.C. § 1983.

80. Plaintiff alleges that in doing the acts and things above complained of, the defendants were conspirators engaged in a scheme and conspiracy designed and intended to deny and deprive him of rights guaranteed to the plaintiff under the Constitution and laws of the United States and particularly those herein above enumerated.

81. The Plaintiff has given this Court fair notice, that will enable each adverse party to answer and prepare for trial, the Plaintiff has allowed the application of res judicata, and identified the nature of the case so it may be assigned the proper forum for trial.

82. The plaintiff has exhausted all administrative remedies pursuant to 42 U.S.C. § 1997e (a), through his Attorney Herbert Greenman Esq. he has consistently informed Maura O'donnell of

the wrongful allegations and the violations of due process, individually he has contacted Eric Holder Jr, Head U.S. Marshall, Head U.S. Probation Officer, as well as the Captain of the Willoughby Hills Police Dept, individually and through his attorney Sam Davis he has contacted private citizens involved in the complaint. Included in the index are letters on behalf of the plaintiffs effort to find an administrative remedy.

83. Plaintiff alleges that as the direct consequences and result of the acts of the defendants herein above complained of, plaintiff suffered injuries both physical and mental, plaintiff has suffered and will in the future suffer great pain and has sustained a severe nervous shock with resultant nervous injuries; upon information and belief allege that certain of the injuries are of permanent nature; plaintiff has suffered great humiliation and injury to his reputation and business.

RELIEF REQUESTED

1. Compensatory damages in the amount of \$500,000 from each defendant.
2. Punitive damages in the amount of \$1,000,000,000 from each defendant.
3. Trial by jury on all issues triable by jury in accordance with the provision of Federal Rule of Civil Procedure 38(a) and (b).
4. Plaintiff's cost of this action.
5. Such other relief as this Court deems just , proper, and equitable.

CERTIFICATE OF SERVICE

I, BRIAN AVERY SMITH, of Buffalo Federal Detention Facility 4250 Federal Drive, Batavia, N.Y. 14020 Marshall # 61750-019 certify that on November 5, 2013, I served a copy of a **CIVIL ACTION NO. 42 U.S.C. § 1983**, a Request to Proceed in Forma Pauperis, and a Request to be Assigned Counsel, by placing them in the U.S. Mail postage prepaid and addresses as:


**United States District Court
For The Western District of New York**

United States Court
Western District
Clerks Office
2 Niagara Square
Buffalo N.Y. 14202

Brian A Smith
61750019
BFDF
4250 Federal Drive
Batavia, N.Y. 14020


I declare under penalty of perjury that the above statements are true and correct,
pursuant to 28 U.S.C. § 1746.

Dated: November 6, 2013


MATTHEW BUCK
Notary Public - State of New York
No. 01BU6256203
Qualified in Wyoming County
My Commission Expires March 26, 2016

11/6/13

18


Brian A Smith

Brian A Smith
61750019
BFDF
4250 Federal Drive
Batavia, N.Y.


October 31, 2013

Mr. Holder,

This is my third letter to your office, unfortunately no one has responded to my inquiries. I'm writing with respect to issues I'm having with the U.S. Attorney's offices, in St Louis Missouri and Buffalo N.Y. My constitutional rights have been jeopardized. I would like to file a formal grievance with your office. Can you have someone in your office forward the proper procedure. The only other available remedy would be to file a Biven's claim, I would like to exhaust my administrative remedies first.

Regards



Sworn to before me on the 31 day of Oct, 2013
MICHAEL A. FINNIGAN
Notary Public - State of New York
No. 01F16211416
Qualified in Monroe County
My Commission Expires September 21, 2017
NOTARY PUBLIC 

cc: Herbert Greenman Esq.

Brian Smith
61750-019
BFDF
4250 Federal Drive
Batavia NY 14020

October 27, 2013

Captain Christopher J Collins,

On October 5, 2011 I was stopped by an officer in your department, he indicated that he pulled me over because of an improper lane change, he then proceeded to search the vehicle with a K9 unit, detain me and the passenger, he forced me to sit in the rear of his vehicle while he verified my destination. At the time the passenger had a pre-schedule appointment to purchase a vehicle at a Volvo Dealership in Cleveland, it was both humiliating and embarrassing for this episode to occur, he indicated that there was a very strong odor and the windows were rolled up, he leaves out the fact it was raining that day, for certain there was no foul odor because the passenger was trading in her car. It's my assertion that this was an illegal traffic stop. I would like file a grievance with this officer as I feel my fourth amendment rights were violated.

Regards
Brian Smith

cc: NAACP
Eric Holder Jr
Herbert Greenman Esq.

Brian A Smith
61750019
BFDF
4250 Federal Drive
Batavia, N.Y.


October 31, 2013

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Regards



Sworn to before me on the 31 day of Oct, 2013
MICHAEL A. FINNIGAN
Notary Public - State of New York
No. 01FI6211416
Qualified in Monroe County
My Commission Expires September 21, 2017
NOTARY PUBLIC 

cc: Herbert Greenman Esq.

Brian Smith
61750019
BFDF
4250 Federal Drive
Batavia NY 14020

October 28, 2013

Congressman Higgins,

This is my **third letter** regarding issues I'm having with the federal criminal justice system. I haven't received any correspondences from your office which is disappointing. I was hoping you could be of some assistance with respect to certain inherent flaws that exist within the government. My civil rights have been violated by the U.S. Attorney office, The Federal Marshall's office, and The Federal Probation office, I intend on filing a lawsuit, and a formal grievance with each office. If your office is unable to initiate an inquiry I 'm hoping you can point me in the right direction, please take time to respond to my letter, as my resources are limited.

Regards

CC: Herbert Greenman Esq.
NAACP
ACLU

Brian Smith
61750019
BFDF
4250 Federal Drive
Batavia NY 14020

October 28th 2013

Senator Gillibrand,

This is my **third letter** regarding issues I'm having with the federal criminal justice system. I haven't received any correspondences from your office which is disappointing. I was hoping you could be of some assistance with respect to certain inherent flaws that exist within the government. My civil rights have been violated by the U.S. Attorney office, The Federal Marshall's office, and The Federal Probation office, I intend on filing a lawsuit, and a formal grievance with each office. If your office is unable to initiate an inquiry I 'm hoping you can point me in the right direction, please take time to respond to my letter, as my resources are limited.

Regards

CC: Herbert Greenman Esq.
NAACP
ACLU

Brian Smith
61750019
BFDF
4250 Federal Drive
Batavia NY 14020

October 28,2013

Senator Schumer,

This is my **third letter** regarding issues I'm having with the federal criminal justice system. I haven't received any correspondences from your office which is disappointing. I was hoping you could be of some assistance with respect to certain inherent flaws that exist within the government. My civil rights have been violated by the U.S. Attorney office, The Federal Marshall's office, and The Federal Probation office, I intend on filing a lawsuit, and a formal grievance with each office. If your office is unable to initiate an inquiry I 'm hoping you can point me in the right direction, please take time to respond to my letter, as my resources are limited.

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